

**A SUBSTITUTE ORDINANCE
BY TRANSPORTATION COMMITTEE**

10-O-0735

A SUBSTITUTE ORDINANCE TO CORRECT CERTAIN ERRORS THAT WERE CONTAINED IN THE TEXT OF ATLANTA CITY COUNCIL ORDINANCE NO. 09-O-0765 ADOPTED BY THE ATLANTA CITY COUNCIL ON JULY 20, 2009, WITH RESPECT TO CITY CODE SECTION 150-131 RESULTING IN SAID SECTION BEING INCORRECTLY SET OUT IN BOTH THE ELECTRONIC AND NON-ELECTRONIC PUBLISHED VERSIONS OF THE CITY OF ATLANTA CODE OF ORDINANCES; AND FOR OTHER PURPOSES.

WHEREAS, the City of Atlanta wished to improve parking management within the public right of way; and

WHEREAS, to that end, the Atlanta City Council adopted Ordinance No. 09-O-0765 on July 20, 2009, to amend city code sections 150-88, 150-131, and 162-258, a copy of which is appended hereto; and

WHEREAS, it was subsequently discovered that both the electronic and non-electronic published versions of city code section 150-131 had been improperly revised due to certain errors contained in the legislation that had been adopted; and

WHEREAS, it is necessary to correct these errors in city code section 150-131 so that said section contains the complete text as adopted by the Atlanta City Council.

THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA, HEREBY ORDAINS, as follows:

SECTION 1: Section 150-131 of the City of Atlanta Code of Ordinances was amended, pursuant to adopted Ordinance No. 09-O-0765, with revisions made to the introductory paragraph and subsections (b) and (c) which are set out correctly below with formerly misplaced text inserted in italics and small caps for purposes of clarity.

Sec. 150-131. Enforcement.

Enforcement of this division, including issuance of citations for vehicles parked in restricted areas, shall be the responsibility of parking enforcement officers, the parking management service, and/or the police chief or his designee.

(a) *Parking enforcement officer* means non-sworn personnel designated by the commissioner of public works, and appointed by the police chief or his designee as code enforcement agents pursuant to section 98-1 of the Code

of Ordinances, for the purpose of enforcing parking regulations including issuance of citations, towing of vehicles, and/or immobilization of vehicles parked in restricted areas. In order to enforce these code provisions, these employees must apply for and receive the status of code enforcement agent.

(b) *Parking management service* is the private vendor retained by the City of Atlanta that employs off duty or retired police officers to perform services described in subsection (c) below, and in addition, that employs non-sworn personnel (parking management agents) that are authorized to issue parking citations for vehicles that are illegally parked only in the following three instances:

(1) The issuance of citations for vehicles that violate the provisions of Atlanta City Code Section 150-132 which provides for parking time limits at metered parking spaces.

(2) The issuance of citations for vehicles that violate the provisions of Atlanta City Code Section 150-133 which prohibits overtime parking at metered parking spaces.

(3) The issuance of citations for vehicles that are illegally parked on streets that are included in residential permit ***PARKING AREAS AUTHORIZED AT DIVISION 4 OF CHAPTER 150 OF THE ATLANTA CITY CODE.***

(C) SWORN POLICE OFFICER IS:

(1) ANY ACTIVE DUTY POLICE OFFICER; OR

(2) ANY OFF DUTY POLICE OFFICER EMPLOYED BY THE PARKING MANAGEMENT service for the purpose of enforcing City of Atlanta parking regulations, including the issuance of citations for vehicles that are illegally parked, and the immobilization and impoundment of vehicles that are illegally parked; or

(3) Any retired police officer presently employed by the parking management service for the purpose of enforcing City of Atlanta parking regulations, including the issuance of citations for vehicles that are illegally parked, and the immobilization and impoundment of vehicles that are illegally parked.

SECTION 2: Section 150-131 of the City of Atlanta Code of Ordinances, having been amended as set out in Section 3 above, shall appear as follows in the City of Atlanta Code of Ordinances:

Sec. 150-131. Enforcement.

Enforcement of this division, including issuance of citations for vehicles parked in restricted areas, shall be the responsibility of parking enforcement officers, the parking management service, and/or the police chief or his designee.

(a) *Parking enforcement officer* means non-sworn personnel designated by the commissioner of public works, and appointed by the police chief or his designee as code enforcement agents pursuant to section 98-1 of the Code of Ordinances, for the purpose of enforcing parking regulations including issuance of citations, towing of vehicles, and/or immobilization of vehicles parked in restricted areas. In order to enforce these code provisions, these employees must apply for and receive the status of code enforcement agent.

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(2) The issuance of citations for vehicles that violate the provisions of Atlanta City Code Section 150-133 which prohibits overtime parking at metered parking spaces.

(3) The issuance of citations for vehicles that are illegally parked on streets that are included in residential permit parking areas authorized at Division 4 of Chapter 150 of the Atlanta City Code.

(c) *Sworn police officer* is:

(1) Any active duty police officer; or

(2) Any off duty police officer employed by the parking management service for the purpose of enforcing City of Atlanta parking regulations, including the issuance of citations for vehicles that are

illegally parked, and the immobilization and impoundment of vehicles that are illegally parked; or

(3) Any retired police officer presently employed by the parking management service for the purpose of enforcing City of Atlanta parking regulations, including the issuance of citations for vehicles that are illegally parked, and the immobilization and impoundment of vehicles that are illegally parked.

SECTION 3: All ordinances and parts of ordinances in conflict herewith are hereby waived to the extent of the conflict.

AN ORDINANCE
BY TRANSPORTATION COMMITTEE

AN ORDINANCE TO CORRECT CERTAIN SCRIVENER'S ERRORS THAT WERE CONTAINED IN THE TEXT OF ATLANTA CITY COUNCIL ORDINANCE NO. 09-O-0765 ADOPTED BY THE ATLANTA CITY COUNCIL ON JULY 20, 2009, WITH RESPECT TO CITY CODE SECTIONS 150-88 AND 150-131 RESULTING IN SAID SECTIONS BEING INCORRECTLY SET OUT IN BOTH THE ELECTRONIC AND NON-ELECTRONIC PUBLISHED VERSIONS OF THE CITY OF ATLANTA CODE OF ORDINANCES; AND FOR OTHER PURPOSES.

WHEREAS, the City of Atlanta wished to improve parking management within the public right of way; and

WHEREAS, to that end, the Atlanta City Council adopted Ordinance No. 09-O-0765 on July 20, 2009, to amend city code sections 150-88, 150-131, and 162-258, a copy of which is appended hereto; and

WHEREAS, it was subsequently discovered that both the electronic and non-electronic published versions of city code sections 150-88, and 150-131 had been improperly revised due to certain scrivener's errors contained in the legislation that had been adopted; and

WHEREAS, it is necessary to correct these scrivener's errors in city code sections 150-88 and 150-131 so that said sections contain the complete text as adopted by the Atlanta City Council.

THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA, HEREBY ORDAINS, as follows:

SECTION 1: Section 150-88 of the City of Atlanta Code of Ordinances, was amended, pursuant to adopted Ordinance No. 09-O-0765, with revisions made to the section heading (in underlined text) and with subsection (c) modified as shown in bold text and new subsections (c)(6) and (h) set out in bold text below.

Sec. 150-88. Moving, impoundment of vehicles; sale of impounded vehicles, and immobilization of vehicles.

(a) *Unlawful standing.* Any police officer who finds a vehicle standing upon a street or highway in violation of this chapter may move the vehicle or require the driver or other person in charge of the vehicle to move it to a position off the roadway.

(b) *Unattended vehicle on highway, bridge or tunnel.* Any police officer may remove or cause to be removed to the nearest vehicle pound or other place of safety any unattended vehicle unlawfully left standing upon any highway, bridge, causeway or in any tunnel.

(c) *Impoundment and Immobilization.* Any police officer, **parking enforcement officer, or parking management service, as defined in Code Sections 150-131(a), 150-131(b), and 150-131(c)** may remove or cause to be removed to the nearest vehicle pound or other place of safety any vehicle found upon a highway when:

(1) Report has been made that the vehicle has been stolen or taken without the consent of its owner;

(2) The person in charge of the vehicle is unable to provide for its custody or removal;

(3) The person driving or in control of the vehicle is arrested for an alleged offense for which the officer is required by law to take the person arrested before a proper magistrate without unnecessary delay;

(4) The vehicle is stopped, except when traffic congestion makes movement impossible, on a controlled access highway which is a part of the national system of interstate and defense highways, for more than eight hours, unless the vehicle constitutes a traffic hazard, in which case it may be removed immediately; or

(5) The vehicle is without a current license tag, current registration or the proper inspection sticker.

(6) The vehicle is immobilized through the use of a vehicle immobilization device as defined at Section 162-251 of the City of Atlanta Code of Ordinances, and all associated tickets, fees and fines have not been paid in full to the City of Atlanta within twenty four (24) hours of immobilization.

d) *Authority to sell; notice.* When any vehicle is left on the streets and it becomes necessary for the department of police to take charge of the vehicle in order to preserve the safety of travel on the streets and the department of police does take charge of the vehicle and removes the vehicle and places the vehicle in storage, the vehicle shall be safely kept for 60 days. If after 60 days the vehicle shall be unclaimed by a person making the necessary proof of title, the police chief shall, for two days, put an advertisement in the newspaper in which the city's advertisements are published, describing the vehicle to be sold and giving such information

about the vehicle as will put the owner or other persons having knowledge thereof in possession of the facts, stating that the property is in the police chief's possession or control and that, at the expiration of 20 days, it will be exposed for sale. The advertisement shall also state the time and place the vehicle shall be sold and that the proceeds shall be turned in to the city treasury. However, the advertisement shall also state that, within 20 days of the last advertisement provided for in this subsection, any person making satisfactory proof of title or any person who shall claim title to the vehicle shall have the right to request a hearing before the police chief or the police chief's designee to establish, by evidence, proof of title to the vehicle claimed. Upon request for a hearing, the police chief or the police chief's designee shall, within ten days, set a time and place for the hearing and shall notify the person claiming title to the vehicle of the hearing.

(e) *Conduct, record of sale.* At the time named in the notice pursuant to subsection (d) of this section, the police chief or some officer authorized by the police chief, shall proceed to the place where the vehicle is stored and expose the vehicle for sale and sell the vehicle to the highest bidder for cash. A record shall be kept of such sale showing each vehicle sold, with a description corresponding to the advertisement, the name of the purchaser and the amount received therefor.

(f) *Disposition of proceeds.* The police chief shall turn the proceeds of the sale into the general fund of the city, keeping such a record thereof as may serve to identify the vehicle with the proceedings required in this section. The chief financial officer is authorized to pay to a wrecker or storage garage which has an agreement or contract with the city the towing and storage fees on impounded vehicles or the sales price of the impounded vehicle, if such should be less than the towing and storage fees, but less than \$10.00 for each vehicle impounded. The payments made to a wrecker or storage garage shall be paid from and charged to a special appropriations account established with the general fund.

(g) *Police use of vehicles.* The vehicles which have been processed for sale at public auction, as provided by this section, may, in the discretion of the police chief, be utilized by the department of police for a period not to exceed 90 days before being subjected to sale, as otherwise provided by this section.

(h) Immobilization of vehicles. Any sworn police officer or parking enforcement officer may cause a vehicle to be immobilized if the vehicle has been issued a minimum of three unsatisfied delinquent parking tickets. The charge for the immobilization of vehicles under this section shall not exceed \$50.00 per day for the removal of the vehicle immobilization device or devices. Neither the City nor its

parking management service shall have liability for any damage, vandalism or theft of any immobilized vehicles.

SECTION 2: Section 150-88 of the City of Atlanta Code of Ordinances, having been amended as set out in Section 1 above, shall appear as follows in the City of Atlanta Code of Ordinances:

Sec. 150-88. Moving, impoundment of vehicles; sale of impounded vehicles, and immobilization of vehicles.

(a) *Unlawful standing.* Any police officer who finds a vehicle standing upon a street or highway in violation of this chapter may move the vehicle or require the driver or other person in charge of the vehicle to move it to a position off the roadway.

(b) *Unattended vehicle on highway, bridge or tunnel.* Any police officer may remove or cause to be removed to the nearest vehicle pound or other place of safety any unattended vehicle unlawfully left standing upon any highway, bridge, causeway or in any tunnel.

(c) *Impoundment and Immobilization.* Any police officer, parking enforcement officer, or parking management service, as defined in Code Sections 150-131(a), 150-131(b), and 150-131(c) may remove or cause to be removed to the nearest vehicle pound or other place of safety any vehicle found upon a highway when:

(1) Report has been made that the vehicle has been stolen or taken without the consent of its owner;

(2) The person in charge of the vehicle is unable to provide for its custody or removal;

(3) The person driving or in control of the vehicle is arrested for an alleged offense for which the officer is required by law to take the person arrested before a proper magistrate without unnecessary delay;

(4) The vehicle is stopped, except when traffic congestion makes movement impossible, on a controlled access highway which is a part of the national system of interstate and defense highways, for more than eight hours, unless the vehicle constitutes a traffic hazard, in which case it may be removed immediately; or

(5) The vehicle is without a current license tag, current registration or the proper inspection sticker.

(6) The vehicle is immobilized through the use of a vehicle immobilization device as defined at Section 162-251 of the City of Atlanta Code of Ordinances, and all associated tickets, fees and fines have not been paid in full to the City of Atlanta within twenty four (24) hours of immobilization.

d) *Authority to sell; notice.* When any vehicle is left on the streets and it becomes necessary for the department of police to take charge of the vehicle in order to preserve the safety of travel on the streets and the department of police does take charge of the vehicle and removes the vehicle and places the vehicle in storage, the vehicle shall be safely kept for 60 days. If after 60 days the vehicle shall be unclaimed by a person making the necessary proof of title, the police chief shall, for two days, put an advertisement in the newspaper in which the city's advertisements are published, describing the vehicle to be sold and giving such information about the vehicle as will put the owner or other persons having knowledge thereof in possession of the facts, stating that the property is in the police chief's possession or control and that, at the expiration of 20 days, it will be exposed for sale. The advertisement shall also state the time and place the vehicle shall be sold and that the proceeds shall be turned in to the city treasury. However, the advertisement shall also state that, within 20 days of the last advertisement provided for in this subsection, any person making satisfactory proof of title or any person who shall claim title to the vehicle shall have the right to request a hearing before the police chief or the police chief's designee to establish, by evidence, proof of title to the vehicle claimed. Upon request for a hearing, the police chief or the police chief's designee shall, within ten days, set a time and place for the hearing and shall notify the person claiming title to the vehicle of the hearing.

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SECTION 3: Section 150-131 of the City of Atlanta Code of Ordinances was amended, pursuant to adopted Ordinance No. 09-O-0765, with revisions made to the introductory paragraph and subsections (b) and (c) is set out correctly below with revisions having been made in bold text.

Sec. 150-131. Enforcement.

Enforcement of this division, including issuance of citations for vehicles parked in restricted areas, shall be the responsibility of parking enforcement officers, **the parking management service**, and/or the police chief or his designee.

(a) *Parking enforcement officer* means non-sworn personnel designated by the commissioner of public works, and appointed by the police chief or his designee as code enforcement agents pursuant to section 98-1 of the Code of Ordinances, for the purpose of enforcing parking regulations including issuance of citations, towing of vehicles, and/or immobilization of vehicles parked in restricted areas. In order to enforce **these** code provisions, these employees must apply for and receive **the** status of code enforcement agent.

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(3) The issuance of citations for vehicles that are illegally parked on streets that are included in residential permit parking areas authorized at Division 4 of Chapter 150 of the Atlanta City Code.

(c) *Sworn police officer* is:

(1) Any active duty police officer; or

(2) Any off duty police officer employed by the parking management service for the purpose of enforcing City of Atlanta parking regulations, including the issuance of citations for vehicles that are illegally parked, and the immobilization and impoundment of vehicles that are illegally parked; or

(3) Any retired police officer presently employed by the parking management service for the purpose of enforcing City of Atlanta parking regulations, including the issuance of citations for vehicles that are illegally parked, and the immobilization and impoundment of vehicles that are illegally parked.

SECTION 4: Section 150-131 of the City of Atlanta Code of Ordinances, having been amended as set out in Section 3 above, shall appear as follows in the City of Atlanta Code of Ordinances:

Sec. 150-131. Enforcement.

Enforcement of this division, including issuance of citations for vehicles parked in restricted areas, shall be the responsibility of parking enforcement officers, the parking management service, and/or the police chief or his designee.

(a) *Parking enforcement officer* means non-sworn personnel designated by the commissioner of public works, and appointed by the police chief or his designee as code enforcement agents pursuant to section 98-1 of the Code of Ordinances, for the purpose of enforcing parking regulations including issuance of citations, towing of vehicles, and/or immobilization of vehicles parked in restricted areas. In order to enforce these code

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SECTION 5: All ordinances and parts of ordinances in conflict herewith are hereby waived to the extent of the conflict.

RCS# 210
5/03/10
2:28 PM

Atlanta City Council

REGULAR SESSION

CONSENT II

EXCEPT 10-O-0739,10-O-0740

REFER

YEAS: 11
NAYS: 0
ABSTENTIONS: 0
NOT VOTING: 3
EXCUSED: 0
ABSENT 2

NV Smith	Y Archibong	Y Moore	B Bond
Y Hall	Y Wan	Y Martin	NV Watson
Y Young	Y Shook	Y Bottoms	Y Willis
B Winslow	Y Adrean	Y Sheperd	NV Mitchell

CONSENT II

Part II: Legislative White Paper: (This portion of the Legislative Request Form will be shared with City Council members and staff)

A. To be completed by Legislative Counsel:

Committee of Purview: Transportation Committee

Caption: AN ORDINANCE TO CORRECT CERTAIN SCRIVENER'S ERRORS THAT WERE CONTAINED IN THE TEXT OF ATLANTA CITY COUNCIL ORDINANCE NO. 09-O-0765 ADOPTED BY THE ATLANTA CITY COUNCIL ON JULY 20, 2009, WITH RESPECT TO CITY CODE SECTIONS 150-88 AND 150-131 RESULTING IN SAID SECTIONS BEING INCORRECTLY SET OUT IN BOTH THE ELECTRONIC AND NON-ELECTRONIC PUBLISHED VERSIONS OF THE CITY OF ATLANTA CODE OF ORDINANCES; AND FOR OTHER PURPOSES.

Council Meeting Date: May 3, 2010

Requesting Dept.: Department of Public Works

B. To be completed by the department:

1. Please provide a summary of the purpose of this legislation (Justification Statement).

The purpose of this legislation is to correct errors that were found in Ordinance 09-O-0765, that affected City of Atlanta code sections 150-88 and 150-131.

2. Please provide background information regarding this legislation.

3. If Applicable/Known:

- (a) **Contract Type (e.g. Professional Services, Construction Agreement, etc):**
- (b) **Source Selection:**
- (c) **Bids/Proposals Due:**
- (d) **Invitations Issued:**
- (e) **Number of Bids:**
- (f) **Proposals Received:**

(g) Bidders/Proponents:

(h) Term of Contract:

4. Fund Account Center:

5. Source of Funds:

6. Fiscal Impact:

7. Method of Cost Recovery:

This Legislative Request Form Was Prepared By:

TRANSMITTAL FORM FOR LEGISLATION

TO: MAYOR'S OFFICE

ATTN: CANDACE BYRD

Dept.'s Legislative Liaison: Rita Braswell

Contact Number: (404) 330-6240

Originating Department: Department of Public Works

Committee(s) of Purview: Transportation Committee

Chief of Staff Deadline: March 9, 2010

Anticipated Committee Meeting Date(s): April 28, 2010

Anticipated Full Council Date: May 3, 2010

Legislative Counsel's Signature: Saul Schultz

Commissioner Signature: Michael Cheyne

Chief Procurement Officer Signature: _____

CAPTION

AN ORDINANCE TO CORRECT CERTAIN SCRIVENER'S ERRORS THAT WERE CONTAINED IN THE TEXT OF ATLANTA CITY COUNCIL ORDINANCE NO. 09-O-0765 ADOPTED BY THE ATLANTA CITY COUNCIL ON JULY 20, 2009, WITH RESPECT TO CITY CODE SECTIONS 150-88 AND 150-131 RESULTING IN SAID SECTIONS BEING INCORRECTLY SET OUT IN BOTH THE ELECTRONIC AND NON-ELECTRONIC PUBLISHED VERSIONS OF THE CITY OF ATLANTA CODE OF ORDINANCES; AND FOR OTHER PURPOSES.

Mayor's Staff Only

Received by CPO: _____ Received by LC from CPO: _____
(date) (date)

Received by Mayor's Office: 3/4/10 Reviewed by: _____
(date) (date)

Submitted to Council: _____